

<b>CITY OF WESTMINSTER</b>			
<b>PLANNING APPLICATIONS COMMITTEE</b>	<b>Date</b> 8 March 2016	<b>Classification</b> For General Release	
<b>Report of</b> Director of Planning		<b>Ward(s) involved</b> West End	
<b>Subject of Report</b>	<b>29-30 Soho Square, London, W1D 3QS,</b>		
<b>Proposal</b>	Use of part of the building at lower ground to second floor fronting Soho Square and all of the third and fourth floors for Class B1a office purposes.		
<b>Agent</b>	Savills		
<b>On behalf of</b>	NHS Property Services		
<b>Registered Number</b>	15/11340/FULL	<b>Date amended/ completed</b>	5 January 2016
<b>Date Application Received</b>	4 December 2015		
<b>Historic Building Grade</b>	Grade II		
<b>Conservation Area</b>	Soho		

## 1. RECOMMENDATION

1. Refuse permission - loss of Class D1 social and community use.
2. Do Members agree that had the Class D1 floorspace been marketed and not taken up, the principle of Class B1 might have been acceptable?

## 2. SUMMARY

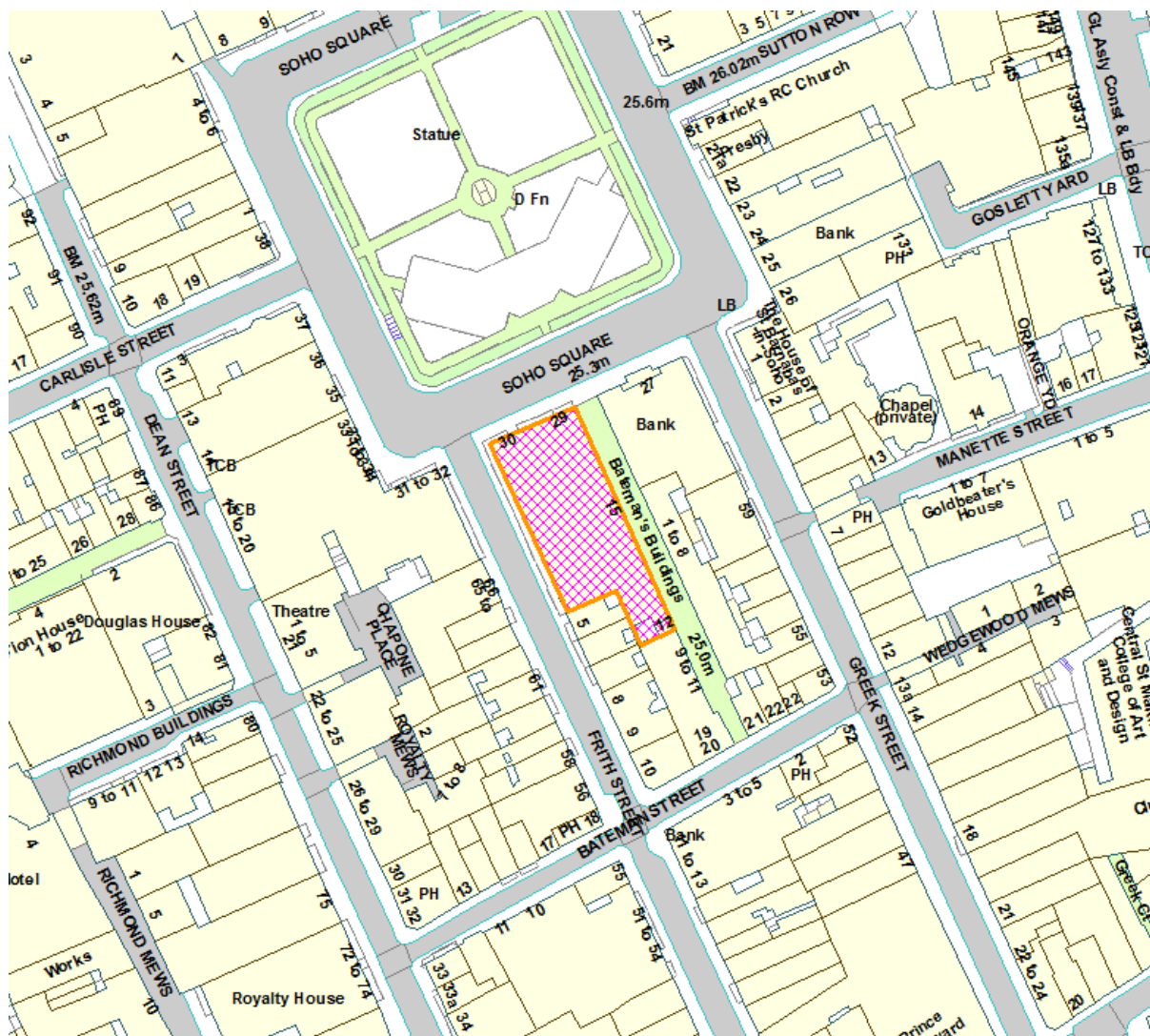
The application concerns a prominent listed building on the south side of Soho Square that has a long history of medical use. Planning permission is sought to convert the front part of the property (which faces Soho Square), including the whole of the third and fourth floors, from largely vacant Class D1 health/community use to Class B1a office use (2,809 sqm). The health uses in the rear part of the building (including the Soho Centre for Health and NHS Walk-In Centre), accessed from its own entrance on Frith Street, would remain (2,409 sqm).

The applicant has argued that the relevant space, parts of which have been vacant for some time, has been used as ancillary office/meeting room accommodation. Nevertheless, its lawful use is Class D1 social and community floorspace, and the policy presumption is to protect this use. It is accepted that the applicant has satisfactorily demonstrated that the accommodation is surplus to its own requirements, as part of a rationalisation strategy. However, Council policy requires that the space is marketed for alternative social and community uses, which the applicant has resisted. Its own

marketing 'analysis' is not an acceptable alternative and therefore the proposal is considered to be contrary to policy and is accordingly recommended for refusal on these grounds.

The existing policy presumption would be the accommodation to be converted to residential use. It is accepted that this might be difficult, given the listed building constraints. It is also noted that the Council's emerging policy position is to reverse the recent trend in losing office accommodation to residential use, and therefore members are asked to consider whether conversion to B1 office use would have been acceptable in principle, had the loss of the social and community use been satisfactorily addressed and tested.

### 3. LOCATION PLAN



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4. PHOTOGRAPHS



## 5. CONSULTATIONS

### CROSS LONDON RAIL LINKS LTD

Do not wish to comment

### SOHO SOCIETY

Do not object to the application but initially sought clarification about two current consulting rooms within the proposed office area that the Society suggested should be excluded from the application [the applicant has confirmed that these are to be relocated to the retained health use accommodation at the rear], and queried the provision of disabled toilets;

The Society subsequently met a representative from the applicants and asked if one room in the application site could be made available for evening community meetings, and whether improvements could be made to Bateman's Buildings (eg lighting, the surface, provision of public cycle parking);

The Society has since also queried the potential need for clinical activities to expand in the future and what scope there is for some of the office space (if approved) being surrendered for this use.

### CLEANSING

The proposal does not indicate any storage for waste and recyclable material, which should be secured by condition.

### HIGHWAYS PLANNING MANAGER

No objection in principle but express concern about the lack of cycle parking provision (the amount of offices proposed would require 32 cycle parking spaces).

### ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 31; Total No. of replies: 0

PRESS ADVERTISEMENT / SITE NOTICE: Yes

## 6. BACKGROUND INFORMATION

### 6.1 The Application Site

The application site is located on the south side of Soho Square with frontages that extend along Frith Street and the alleyway known as Bateman Buildings. Comprising lower ground, ground and part-3/part-4 upper floors, the building is listed Grade II and is within the Soho Conservation Area, as well as the Core Central Activities Zone.

Although it is listed Grade II, the scheme approved in 1995 (see below) was for substantial works that included retention of the façade on Frith Street with a modern structure behind - this was the main location of the clinical accommodation with its own entrance and public waiting/reception area, now occupied by the Soho NHS Walk-In Centre. The applicant advises that substantial parts of the building have historically been used as office/administrative accommodation, and these were mainly located in the historic part of the building fronting Soho Square.

The surrounding area is characterised by a mix of uses, mainly commercial and residential on upper floors and retail and restaurants at ground level. There are a number of uses associated with creative industries also within the immediate vicinity.

## 6.2 Recent Relevant History

December 1995 - Planning permission and listed building consent granted partial redevelopment, refurbishment & adaptation to form a new community care centre on basement, ground and five upper levels. The scheme included the retention of the main building facades but the rebuilding of the southern core of the site.

### Other recent NHS site history

September 2015 - permission granted to Central and North West London NHS Foundation Trust (CNWL) for the use of 17 Paddington Green as five residential units, erection of a single storey roof extension to existing side addition, excavation of the floor level to part of existing basement floor, replacement of the existing front boundary and associated external alterations and landscaping to the front and rear (14/12015/FULL).

The Committee resolved to grant conditional permission, subject to a legal agreement to secure a financial contribution of £96,240 towards social and community uses in the vicinity of the application site in lieu of the loss of social and community floorspace from the site itself. The application formed part of the NHS Foundation Trust's site rationalisation strategy.

October 2015 - The Planning Applications Committee considered proposals by Central and North West London NHS Foundation Trust (CNWL) for the demolition of 15-19 Blenheim Terrace and the erection of 3 x 5 bedroom five storey townhouses; the Committee agreed that the proposed amalgamation of the Central and North West London NHS Foundation Trust's Child and Adolescent Mental Health Services on to a single alternative site as part of their site rationalisation strategy and the provision of a financial contribution of £186,713 towards alternative Social and Community Use provision in the vicinity of the site justified the loss of the existing social and community floorspace on this site.

This is subject to a legal agreement to secure the financial contribution (and highways works as part of the proposed development) which has yet to be completed.

## 7. THE PROPOSAL

Planning permission is sought to convert the front part of the property (which faces Soho Square), including the whole of the third and fourth floors, from largely vacant Class D1 health/community use to Class B1a office use (2,809 sqm). The health uses in the rear part of the building, accessed from its own entrance on Frith Street, would remain (2,409 sqm).

There are no physical alterations proposed at this stage and so a separate listed building consent would be required in the future for any works to the building, internally or externally.

The applicant's agent has advised that the proposals are integral to the overall business plan for the site and as a revenue generator will fund the enhancement works for the retained health use (described in more detail below), which, it is alleged, might not otherwise occur.

The applicant has also been asked to consider locating the retained health uses into the part of the building fronting Soho Square, given its historical association with this use (as clearly expressed by the wording on the front façade). The applicant has emphasized that the 1995 scheme was designed to locate the clinical accommodation within the modern part of the structure, with the Soho Square section retained for the historical functions of ancillary office accommodation and meeting/function rooms. The health clinic to the rear is well established with modern layouts, disabled access and up to date fixtures and fittings. The applicant advises that there are strong financial reasons against any relocation within the building, given the amount of upheaval, realignment of layouts etc that would be involved in moving the clinic. There would also potentially be a significant impact on the retained heritage character of the front part of the property by adapting it for the clinic use. These arguments are noted and it is accepted that moving the clinic from one part of the site to another would be problematic.

## **8. DETAILED CONSIDERATIONS**

### **8.1 Land Use**

The change in land use is the sole consideration arising from this application. There are two elements to this, namely the loss of the existing community use and the proposed increase in commercial use. However, the applicant's rationalisation strategy for the provision of its services provides important background information.

#### **Site Rationalisation Strategy Overview**

The lawful use of the building is as a Class D1 healthcare use that is defined by the City Council's adopted development plan policies as being a social and community use. The building currently comprises a health centre in the southern-most part of the building and vacant areas in the northern section. The applicant advises that the vacant areas were last used as ancillary office accommodation, meeting/function rooms and some consulting/counselling rooms.

The Central London Clinical Commissioning Group (CCG) is the main commissioner of community health services in the area. It is one of eight covering north west London which has prepared a draft five year strategic plan 'Transforming the NHS in North West London'. This sets out how they will work collaboratively to transform health and care provision across north west London whilst ensuring a financially sustainable system and meeting the expectations of patients and the public: this promotes the use of 'hub' buildings that will offer a range of out of hospital services and/or host more than one GP practice. A supplementary document 'Healthier North West London (NHS)' focuses on transforming the model of primary care and sets out proposed investment in improving the buildings from which GPs and other community care services operate.

The Central London CCG has been working to shift care out of hospitals and into the community, bringing together different services so that care for patients is better integrated and different services work better together from shared 'hubs'. The health services that previously occupied some of the now vacant parts of the building include the following:

- Central and North West London (CNWL) National Problem Gambling Clinic – occupied the majority of the fourth floor, now relocated to Crowther Market, North End Road (now called Hammersmith & Fulham Community Drug and Alcohol Service (CDAS));
- CNWL for drug and alcohol treatment services – occupied the whole of the third floor, now also located at Crowther Market, North End Road Hammersmith;
- Westminster Joint Homelessness Service – occupied part of the lower ground floor and relocated to 190 Vauxhall Bridge Road;
- Westminster City Council Substance Misuse Team – occupied part of the second floor, also relocated to 190 Vauxhall Bridge Road.

The existing on-site health services will continue to be provided from the Soho Centre for Health/Walk-In Centre. However, the CCG advises that the property has been discounted as a suitable option for the delivery of additional health services. The vacant space is therefore surplus to its requirements and they wish to convert it to B1a office space to generate income.

### **Loss of Class D1 community use**

The existing use of the building as a Class D1 health centre is a use that is defined by the City Council's adopted development plan policies as being a social and community use. Policy SOC1 in the Unitary Development Plan (January 2007) (UDP) and Policy S34 in Westminster's City Plan: Strategic Policies (November 2013) both seek to protect existing social and community uses. (Policy SOC 4 of the UDP also states that "the retention, improvement and redevelopment of facilities for health service uses that meet local needs will be supported").

Policy SOC1(E) in the UDP adopted in 2007 states,

*Proposals which involve the redevelopment or change of use of community facilities will be required to include adequate replacement facilities. Where the facility is surplus to the needs of the existing provider, any new development on the site should include an alternative community facility. Where adequate replacement facilities are not proposed then the City Council will refuse planning permission for this type of proposal.*

Policy S34 in the City Plan was more recently adopted in November 2013 and expands upon Policy SOC1. Therefore, where there is conflict between the two policies, the requirements of Policy S34 in the City Plan must take precedence. Policy S34 begins with

*'All social and community floorspace will be protected, except where existing provision is being reconfigured, upgraded or is being re-located in order to improve services and meet identified needs as part of a published strategy by a local service provider'.*

In the context of Policy S34, the applicant has provided the draft strategy for NHS North West London, 'Transforming the NHS in North West London', which effectively addresses this aspect of Policy S34.

However, policy S34 continues with

*In all such cases the council will need to be satisfied that the overall level of social and community provision is improved and there is no demand for an alternative social and community use for that floorspace. In those cases where the council accepts a loss or reduction of social and community floorspace the priority replacement use will be residential.*

It is therefore necessary for it to be demonstrated that there is no demand for an alternative social and community use of the vacant floorspace in the building. In the first instance it is expected that the presence of alternative social and community use demand would be ascertained by a period of marketing of the premises for their lawful planning use at a reasonable market rent/ sale value.

The applicant has resisted this, stating that it is concerned with the potential delay this will cause in implementing the office use, which it states is required to fund the enhancement works to improve the D1 function at the clinic, as well as starting to recover some of the costs of keeping part of the building vacant.

The applicant's agent has also willfully misinterpreted the pre-application advice that was given, to carry out a proper marketing exercise, by focusing on an alternative option of going through a marketing 'analysis'. This has sought to demonstrate that there would be no demand for use of these premises by alternative social and community uses. The applicant's planning agent has undertaken its own marketing analysis, based on its experience in letting social and community-type premises, which evaluates the potential interest in these properties by other social and community uses. This analysis looks at potential uses such as other healthcare uses (including GP surgeries and dentists), children's day nurseries, schools and other educational establishments.

This analysis sets out why such uses might be discouraged from showing an interest in the building, such as the building's listed status, its layout, location and size. For example, emphasis is given to the central core being characterized by a large staircase with landing and lift core, the floor plate limiting the useable area and creating a poor gross to net ratio. This apparently would be restrictive for a social and community occupier (though presumably no more so than to a B1a office occupier).

The analysis undertaken by the applicant's agent is noted. However, without actually putting the property out to the market, it is unclear whether there would be real demand from other parts of the social and community use sector for reuse of the relevant part of the building. What is clear, however, is the applicant's primary aim is to secure a commercial office occupier.



It is clear from the Soho Society's comments that there is some local demand for community accommodation, as they have asked whether one of the meeting rooms could be made available for evening community meetings. The applicant argues that there would be practical difficulties with this, as the accommodation is likely to be leased to a tenant, and it would be unreasonable to require them to make this space available to a third party, such as a community group.

With regard to the Soho Society's concerns that there may be future demand for the clinic to expand, the applicant advises that the NHS and CCG have confirmed there will be no requirement for the space from the clinic.

Unlike the two schemes referred to above, the applicant has not offered to provide a financial contribution towards alternative social and community use provision in the vicinity of the application site to seek to mitigate the loss of the existing m2 (GIA) of social and community floorspace from the site. Whilst noting the other two sites referred to above, the applicant in this case considers that the proposal meets the requirements of policy S34 and as a result it should not be necessary to provide such financial contributions. Furthermore, those sites were examples of where the NHS was disposing of property, which is not the case in this instance.

The applicant has recently indicated that the proposal will lead to improvements to the retained health use within the building. The Chinese Healthy Living Centre, currently occupying a small area in the front part of the building, with outdated technology, would be relocated to improved accommodation at first floor level. This would be at an estimated cost of £151,000, as well as a reduction of £35,000 in their accommodation costs in their first year. The clinic itself is also to be refurbished and enhanced at an estimated cost of £371,000. Total reduction in accommodation costs of just over £60,000 from NHS assistance would apply to the Chinese Healthy Living Centre and Watsons Pharmacy and Healthshare, who also operate from the Health Centre.

These investments in the retained health use are noted, but it is debatable as to whether they constitute sufficient mitigation to address the substantial loss of social and community floorspace.

Should a suitable social and community use (or uses) that could benefit from the proposed financial contribution not be found to mitigate the loss of the existing social and community use, the financial contribution could alternatively be allocated to the Council's affordable housing fund given that Policy S34 in the City Plan identifies that *'In those cases where the Council accepts a loss or reduction of social and community floorspace the priority replacement use will be residential'*. It would therefore be reasonable to seek to maximise the benefits of the development in terms of increasing the housing stock in the City if the social and community use is to be lost without the full justification for that loss that is required by Policy S34.

In summary, whilst it is accepted that the applicant has demonstrated their case for site rationalisation, the current application is clearly deficient in terms of its response to the normal policy expectation for the site to be reprovided for alternative social and community use in the first instance. Officers are sympathetic to the applicant's wish to generate income for investment for its services, but the priority in planning policy terms is to ensure

that there are no alternative social and community uses that might occupy the accommodation, and this can only be demonstrated by a full and proper marketing exercise. For this reason, the proposal is recommended for refusal on the grounds of being contrary to policy SOC 1 and S34.

### **Proposed office use and mixed use policy**

Policy S34 identifies that should the loss of the existing social and community use be considered acceptable, the appropriate alternative use would be as residential accommodation. It is noted however that the Council's position with regard to the balance of residential and office use within the area has shifted in recognition of the adverse economic consequences of historically allowing changes from the latter use to the former use. The site is located within the Core Central Activities Zone and therefore under the terms of policies COM 2 of the UDP and S1 of the City Plan, office use in this location might be acceptable in principle, instead of the policy presumption under S34 of residential. (Policy S20 of the City Plan also encourages B1 office development in certain locations, including the Core Central Activities Zone.)

However, these policies also state that where office floorspace is being increased by more than 200 sqm, an equivalent amount of residential floorspace should also be introduced. The proposed increase in office floorspace is substantial (2,809 sqm). The applicant is not proposing the provision of any residential accommodation nor is it offering a commuted sum towards affordable housing. It's justification for this is to emphasise the recent Council recognition that significant amounts of office accommodation have been lost in recent years to residential floorspace, even though the relevant policy statements emphasise the protection of office space, rather than its new introduction.

The applicant considers that the office proposals accord with the 'current direction of travel' with emerging policy as evidenced within the Council's draft emerging policy, where there a number of policy changes that strengthen the promotion of the commercial function of the CAZ and office uses being encouraged.

On-site provision of residential accommodation is described as neither practical or feasible (because, for example of the shared entrance and service core) and off site provision is not possible as there is no donor site. Regarding the possibility of a payment in lieu for residential floorspace, the applicant has again referred to emerging policy to argue that the increase in office would not trigger the provisions within the Council's Interim Affordable Housing Note. It is therefore suggested that a payment is not triggered under the current Council guidelines, though the relevance of this is debatable, given the limited status of the emerging policy.

In the context of the in principle support for new offices in the Core CAZ based on the current policy (alongside the substantial financial benefits to enhance the existing D1 clinic and its users' operation as a result of the office proposal) the applicant considers that the application is acceptable in land use terms and in accordance with current guidelines set out in "Submission" Policy S1.

Officers agree that the site would be suitable for office use but consider that the situation is complicated by the emerging policy position. The Committee is therefore asked to

consider whether the principle of B1 office use might have been acceptable, if the Class D1 floorspace had been marketed and not taken up.

## **8.2 Transportation/Parking**

The site is in a highly accessible location and it is not considered that the proposed use is likely to generate significant amounts of traffic. Whilst there would be some servicing this is not expected to be substantial, given the limited servicing requirements for the proposed office use. The comments from the Highways Planning Manager about lack of cycle parking are noted; there is a separate access from the pavement to lower ground level, where cycle storage might be provided, and had the proposal been acceptable, a condition would have been added requiring details of cycle storage to be provided.

## **8.3 Economic Considerations**

The economic benefits for the applicant are noted, as well as the stated investment to the retained health uses. However, these are not considered to be sufficient in themselves to warrant an exception being made to the relevant policies as set out above.

## **8.4 Access**

The main access to the accommodation fronting Soho Square is via steps. Given the narrowness of the lightwell, the difference in height between the ground floor and pavement, and the listed status of the building, it is considered that it would be difficult to provide level access.

## **8.5 Other UDP/Westminster Policy Considerations**

The application is seeking to establish the principle of the change of use and therefore does not provide details of waste storage. Had the application been acceptable, this matter would have been conditioned.

## **8.6 London Plan**

This application raises no strategic issues.

## **8.7 National Policy/Guidance Considerations**

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

## **8.8 Planning Obligations**

On 6 April 2010 the Community Infrastructure Levy (CIL) Regulations came into force which make it unlawful for a planning obligation to be taken into account as a reason for granting planning permission for a development, or any part of a development, whether there is a local CIL in operation or not, if the obligation does not meet all of the three following tests set out in Regulation 122(2):

- a) necessary to make the development acceptable in planning terms;

- b) directly related to the development;
- c) fairly and reasonably related in scale and kind to the development.

From 06 April 2015, the Community Infrastructure Levy Regulations (2010 as amended) impose restrictions on the use of planning obligations requiring the funding or provision of a type of infrastructure or a particular infrastructure project. Where five or more obligations relating to planning permissions granted by the City Council have been entered into since 06 April 2010 which provide for the funding or provision of the same infrastructure types or projects, it is unlawful to take further obligations for their funding or provision into account as a reason for granting planning permission. These restrictions do not apply to funding or provision of non-infrastructure items (such as affordable housing) or to requirements for developers to enter into agreements under section 278 of the Highways Act 1980 dealing with highway works. The recommendations and detailed considerations underpinning them in this report have taken these restrictions into account.

The City Council has consulted on the setting of its own Community Infrastructure Levy, which is to be introduced in May 2016. In the interim period, the City Council has issued interim guidance on how to ensure its policies continue to be implemented and undue delay to development avoided. This includes using the full range of statutory powers available to the council and working pro-actively with applicants to continue to secure infrastructure projects by other means, such as through incorporating infrastructure into the design of schemes and co-ordinating joint approaches with developers.

It is noted that following discussions with the Soho Society the applicant has offered £20,000 towards public realm enhancements within the vicinity of the property, for example, to Bateman's Buildings. However, there is no policy basis for accepting a financial contribution towards public realm improvements. Nor is this offer considered to constitute adequate mitigation for the substantial loss of social and community floorspace.

## **8.9 Environmental Impact Assessment**

Not applicable in this case.

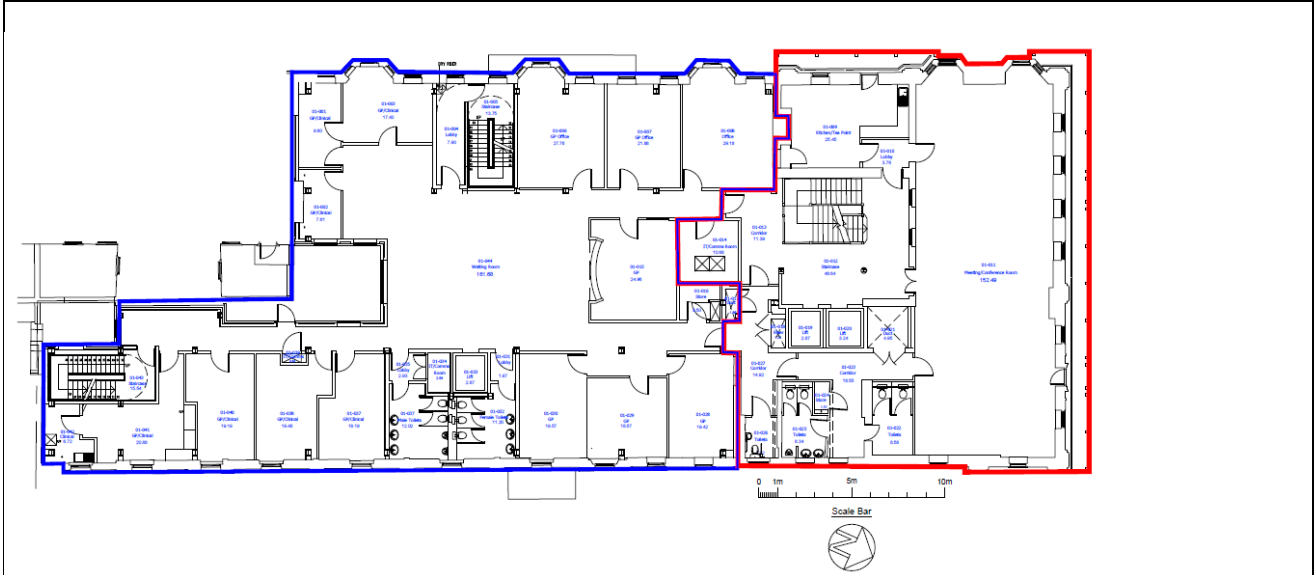
## **9. BACKGROUND PAPERS**

1. Application form
2. Response from Soho Society, dated 10 and 27 January 2016, and email exchange between Matthew Bennett (Soho Society) and Alan Howard (NHS Property Services)
3. Memorandum from Projects Officer (Waste) dated 6 January 2016
4. Email from Crossrail.co.uk dated 24 December 2015
5. Memorandum from the Highways Planning Manager dated 4 January 2016

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT HELEN MACKENZIE BY EMAIL AT [hmackenzie@westminster.gov.uk](mailto:hmackenzie@westminster.gov.uk)





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LEGEND  
— Retained Healthcare Gross External Area  
— Proposed Change of use Office Gross External Area

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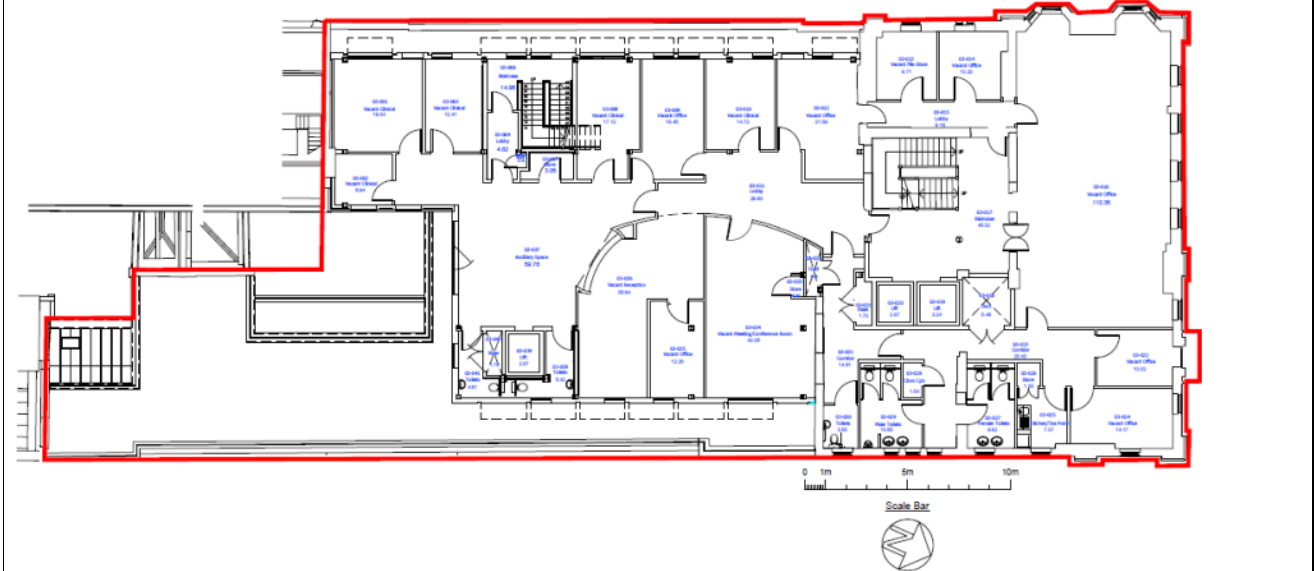
8040 - BISHOP CENTRE FOR HEALTH

Scale: 1:500

Project No: 8040

Client: NHS PROPERTY SERVICES LTD

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Vision, form and function



LEGEND  
— Retained Healthcare Area  
— Proposed Change of use Office Area

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8040 - BISHOP CENTRE FOR HEALTH

Scale: 1:500

Project No: 8040

Client: NHS PROPERTY SERVICES LTD

Drawn by	20.11.15	1:500	A2
Checked by			
84558	01		

**DRAFT DECISION LETTER**

**Address:** 29-30 Soho Square, London, W1D 3QS,

**Proposal:** Use of part of the building at lower ground to second floor fronting Soho Square and all of the third and fourth floors for Class B1a office purposes.

**Reference:** 15/11340/FULL

**Plan Nos:** Site Location Plan; 47-52 inclusive.

**Case Officer:** Paul Quayle

**Direct Tel. No.** 020 7641 2547

**Recommended Condition(s) and Reason(s):**

Reason:

- 1 The proposal would result in the loss of a substantial amount of social and community accommodation without adequate replacement facilities or any other acceptable mitigation to offset that loss. The proposal is therefore contrary to policies S34 of Westminster's City Plan: Strategic Policies adopted November 2013 and SOC 1 of our Unitary Development Plan that we adopted in January 2007.

**Informative(s):**

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way so far as practicable. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition further guidance was offered to the applicant at the validation stage and by the case officer to the applicant during the processing of the application to identify amendments to address those elements of the scheme considered unacceptable. However, the necessary amendments to make the application acceptable are substantial and would materially change the development proposal. They would require further consultations to be undertaken prior to determination, which could not take place within the statutory determination period specified by the Department of Communities and Local Government. You are therefore encouraged to consider submission of a fresh application incorporating the material amendments set out below which are necessary to make the scheme acceptable.

Required amendments:

- Submission of a full and proper marketing assessment for the Class D1 floorspace.